



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 28, 1994

Mr. Richard D. Monroe
Deputy General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Department
125 East Eleventh Street
Austin, Texas 78701-2483

OR94-285

Dear Mr. Monroe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 24965.

The Texas Department of Transportation (the "department") has received a request for information relating to investigations conducted by the department's Civil Rights Division into allegations of discrimination. You advise us that the department has made some of the requested information available to the requestor. You object, however, to release of information relating to pending discrimination investigations. You have submitted representative samples of this information to us for review and claim that section 552.111 of the Government Code excepts it from required public disclosure.

Section 552.111 excepts an "interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the section 552.111 exception and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body at issue. This office also held, however, that section 552.111 does not except purely factual information. Open Records Decision No. 615 at 5-6.

We have examined the information submitted to us for review. It relates to the department's policy of creating contract opportunities to disadvantaged business enterprises. See V.T.C.S. art. 6669c. We conclude that some of the submitted information relates to the department's policymaking functions; however, most of the

submitted information is purely factual in nature. We have marked the advice, recommendations, and opinions reflecting the department's policymaking processes. The department may withhold the marked information under section 552.111 of the Government Code and use these representative documents as a guideline for other documents responsive to the request. The remainder of the submitted information and any similar factual information contained in responsive documents not submitted to us for review must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/GCK/rho

Enclosed: Marked documents

Ref.: ID# 24965
ID# 25017

cc: Mr. Charles Goady
Tex-Rail & Signs
P.O. Box 455
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(w/o enclosures)